

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Lilly Phillips,

Complainant

against

Docket #FIC 2016-0663

Chairman, State of Connecticut,
Retirement Commission; and
State of Connecticut, Retirement
Commission,

Respondents

May 24, 2017

The above-captioned matter was heard as a contested case on January 30, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by email dated July 26, 2016, the complainant requested that the respondents provide her with copies of the following records: “The FOIA allows me to receive from your office the 415b restriction that you claim to follow. I am requesting that information. . . .”
3. It is found that, by email dated July 26, 2016, and by subsequent email dated August 23, 2016, the respondents acknowledged the complainant’s request.
4. By email dated and filed September 15, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by failing to provide her with copies of the records described in paragraph 2, above.
5. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public

agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that, by email dated November 17, 2016, the respondents sent the complainant a copy of Section 415 of the Internal Revenue Code, which document was twenty pages. The respondents contend that these are the only responsive records in their possession.

10. The complainant contended that the records she received are not the records that she wanted from the respondents. At the hearing, the complainant clarified that what she was actually seeking were records showing the monetary limitation on pension benefits pursuant to 29 U.S.C. §415, and how such limitation changed over the past few years.

11. However, it is found that the records provided to the complainant were responsive to the request for records as drafted by the complainant. See ¶ 2, above.

12. In addition, the complainant contended that the records were not provided to her promptly.

13. The Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of statements requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the statements; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without loss of the

personnel time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

14. When the respondents were asked by the hearing officer why it took over three months to provide the complainant with a copy of 26 U.S.C. §415, the respondents replied that they gave the complainant's July 26, 2016 FOI request to their attorneys for processing.

15. Based on the standard set forth in Advisory Opinion #51, it is found that the respondents failed to provide the responsive records promptly to the complainant.

16. Accordingly, it is concluded that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint.

1. Henceforth, the respondents shall strictly comply with the promptness requirements of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 24, 2017.




Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Lily Phillips
239 Collindale Drive
Meriden, CT 06450

Chairman, State of Connecticut, Retirement Commission;
and State of Connecticut, Retirement Commission
c/o Michael J. Rose, Esq.
Cindy M. Cieslak, Esq.
Ford Harrison LLP
750 Main Street
Suite 606
Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission